THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 28505 of 1995

Dated: 24.11.2006

Between:

K.Ramgopal and 21 others

… Petitioners

AND

A.P., State Irrigation Development Corpn.,Ltd.,
Hyderagad and others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

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ORDER:-

The petitioners in this writ petition have challenged their retrenchment made by the first respondent on various grounds. Their main contention is that after working for five years as N.M.R. workers, their services were converted into work-charged employees category by proceedings issued by the Government of Andhra Pradesh vide G.O.Ms.No.128 dated 10.4.1991 and that the impugned proceedings by which the petitioners have been retrenched is illegal.

The first respondent filed a counter affidavit wherein it is stated that when there were irregularities in conversion of N.M.Rs., into work-charged employees in the first respondent Corporation, the workers union filed W.P.No.5375 of 1988 and certain interim orders were granted by virtue of which some of the petitioners in this writ petition are continued. As the financial position of the Corporation has become precarious, directions were given to the field officers to retrench the surplus workers vide letter dated 14.2.1992 and the said letter was subject matter of the writ petition. The said writ petition was disposed of with the direction that the workers with less than three years service can be retrenched. The said order was upheld in Writ Appeal No.1497 of 1992. In W.P.No.5375 of 1988 the first respondent Corporation filed an additional affidavit on 6.8.1993 to the effect that the junior workers who are erroneously converted into work-charged

establishment would also be subjected to retrenchment. In view of the said submission, the writ petition was dismissed on 15.11.1993. S.L.P.No.6486 of 1994 filed questioning the order of the Division Bench of this Court was dismissed on 27.3.1995. As the first respondent Corporation's financial position has worsened they started retrenching the remaining surplus workers on 4.7.1995 following Section 25-F of the Industrial Disputes Act 1947. The said action was challenged in this Court. This Court disposed of the writ petition in W.P.No.16514 of 1995 and W.A.No.897 of 1995 on 28.8.1995 permitting the first respondent Corporation to proceed with the process of retrenchment subject to compliance of the mandatory provisions of the Industrial Disputes Act duly following the principle of "last-come-first-go". In pursuance of the said orders, the first respondent issued a 3 months notice dated 15.9.1995 to retrench the workmen with effect from 18.12.1995 and he also simultaneously applied for permission to retrench these workers to the Commissioner of Labour as prescribed under the Act. 12 out of 22 petitioners in the present writ petition earlier filed W.P.No.5375 of 1988 which was dismissed by the Division Bench of this Court on 15.11.1993. When an issue was raised by them that some of the persons junior to the petitioners therein were converted into work-charged establishment, the first respondent Corporation filed an additional affidavit on 6.8.1993 as aforementioned informing the Division Bench that the converted junior work-charged employees if found surplus may also be retrenched.

Following the orders passed in W.P.No.16514 of 1995 and Writ Appeal No.897 of 1995 wherein the Corporation was directed to follow the principle of "last come first go" at the time of retrenchment, the Corporation found that out of the workers converted into work-charged employees some of them were juniors to the non-converted workers and a notice dated 15.9.1995 was issued for their retrenchment. W.P.No.5375 of 1988 filed by the said 12 persons out of the present 22

petitioners was dismissed on 15.11.1993 considering the additional affidavit dated 6.8.1993 of the Corporation. The Corporation took the stand that dismissal of the earlier writ petition operates as *res judicate* and that the petitioners' union is bound by the directions issued by this Court in W.P.No.16514 of 1995 and the writ appeal No.897 of 1995.

A perusal of the order impugned in the writ petition shows that the process of retrenchment was taken up in pursuance of the aforementioned orders of this Court, which have become final. Though it is contended by the learned counsel for the petitioner that the petitioners are seniors to some of the workmen who are not retrenched, as this plea is disputed by the respondents, this Court cannot go into such a disputed question of fact. However, if the petitioners so choose, it is open to them to approach the Labour Court raising all the issues including the issue relating to their seniority over the workmen who are continued by the first respondent Corporation.

Subject to the above observation, the writ petition is dismissed.

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24.11.2006.

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